

are contained only by the vessel's structure.

(e) *Citizen of the United States* includes a corporation, if all directors of the corporation are citizens of the United States, partnership or association but only if it is deemed a citizen of the United States under section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802).

(f) *Contracting Officer* means the Associate Administrator for Maritime Aids.

(g) *Fiscal year* means any annual period beginning on July 1 and ending on June 30.

(h) *Foreign-flag competition* means those foreign-flag vessels deemed by the Board to be competitive with the subsidized vessel.

(i) *Gross revenue* means the operator's total gross receipts from cargoes or fixtures of a vessel or both.

(j) *Operating-differential subsidy agreement (ODSA)* means the agreement entered into by the operator and the United States government for the payment of operating-differential subsidy.

(k) *Operating-differential subsidy (ODS)* means, except as the operator and the United States government should agree upon a lesser amount, the excess of the cost of subsidizable items of expense incurred in the operation under United States registry of a vessel over the estimated fair and reasonable cost of the same items of expense (excluding any increase in the cost of such items necessitated by features incorporated for national defense), if such vessel were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel, or such sums as the Board may determine to be necessary to make the cost of operating such vessel competitive with the cost of operating similar vessels under the registry of a foreign country.

(l) *Operator* means any individual, partnership, corporation or association that contracts with the United States government under Title VI of the Act to receive ODS.

(m) *Reduced crew period* means any period in port beginning on the day that a vessel's normal crew complement is reduced by 4 or more men and division of wages is not paid for

the missing men and ending on the day prior to the day that the vessel's crew complement is restored to not more than 3 men less than the normal crew complement, or division of wages is paid for the missing men, or the vessel is temporarily or permanently withdrawn from subsidized service, whichever occurs first.

(n) *Region Director* means the Region Director of the Maritime Administration within whose region the principal office of the operator is located.

(o) *Subsidized service* means the operation of a vessel other than in the coastal or intercoastal trade in accordance with the terms and conditions of the ODSA.

(p) *Subsidy rate* means the method adopted by the Board for determining the amount of ODS that is to be paid for an item of subsidizable expense.

(q) *Subsidized vessel* means a vessel covered by an ODSA.

(r) *U.S. foreign commerce* means the commerce or trade between the United States, its territories or possessions, or the District of Columbia and a foreign country.

(s) *Vessel* means subsidized vessel unless otherwise specified.

(t) *Voyage day* means any day or part of a day during which a subsidized vessel is operated in accordance with the terms and conditions of the ODSA.

[40 FR 43490, Sept. 22, 1975, as amended at 45 FR 30442, May 8, 1980; 51 FR 40425, Nov. 7, 1986]

#### § 252.4 Waivers.

In special circumstances and for good cause shown, the procedures prescribed in this part may be waived, in writing, by mutual agreement of the parties, in keeping with the circumstances then present, provided that the procedures adopted are consistent with the Act and with the intent of these regulations.

[51 FR 40425, Nov. 7, 1986]

### Subpart B—Eligibility and Agreement

#### § 252.10 Eligibility.

Any citizen of the United States may apply to the Board for the payment of ODS for the operation of a bulk cargo

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vessel in an essential service in the U.S. foreign commerce.

### § 252.11 Application forms.

Application forms may be obtained from the Secretary, Maritime Administration, Department of Transportation, Washington, DC 20590.

### § 252.12 Approval.

The Board may not approve an application for the payment of ODS until the Board has determined, in addition to other statutorily required determinations, that:

(a) The operation of the vessel in an essential service is required to meet foreign-flag competition and to promote U.S. foreign commerce;

(b) The vessel was built in the United States, or built foreign and determined to be eligible for ODS pursuant to the applicable law at the time it was built or acquired, and the vessel is documented under the laws of the United States.

(c) The applicant owns or leases, or can and will build or purchase or lease, a vessel or vessels of the size, type, speed and number, and with the proper equipment required to enable him to operate in an essential service in such manner as may be necessary to meet competitive conditions and to promote U.S. foreign commerce;

(d) The applicant possesses the ability, experience, financial resources and other qualifications necessary to enable him to conduct the proposed operation of the vessel to meet competitive conditions and promote U.S. foreign commerce;

(e) The granting of the aid applied for is necessary to place the proposed operations of the vessel on a parity with the vessels of foreign competitors, and is reasonably calculated to carry out effectively the purposes and policy of the Act;

(f) The vessel is of steel or other acceptable metal, is propelled by steam or motor, and is as nearly fireproof as practicable; and

(g) The vessel is constructed in accordance with plans and specifications approved by the Board and Secretary of the Navy, with particular reference to economical conversion into an auxiliary naval vessel, or approved by the

Board and Navy Department as otherwise useful to the United States in time of national emergency.

[40 FR 43490, Sept. 22, 1975, as amended at 51 FR 40425, Nov. 7, 1986]

### § 252.13 Contract.

Upon approval by the Board of an application for ODS, the applicant and the United States may enter into an ODSA.

## Subpart C—Operation

### § 252.20 Subsidized and nonsubsidized voyages.

(a) *Subsidized voyages*—(1) *Minimum operation*. The operator shall operate each subsidized vessel for a minimum of 335 days each year in the worldwide carriage of bulk cargo in the U.S. foreign commerce and in the carriage of such cargo between foreign ports.

(2) *Commencement*. The first voyage shall commence at the time provided in the ODSA. All subsequent voyages shall commence at 0001 hours local time of the day following the day of termination of the previous voyage or, in the event that a reduced crew period follows such termination, at 0001 hours local time of the day following the day on which such reduced crew period terminates.

(3) *Termination*. A voyage shall terminate at 2400 hours local time:

(i) In a U.S. port, on the day of completion of (a) paying off the crew from foreign articles, (b) discharge of cargo at the last U.S. port of discharge, or (c) voyage repairs, whichever event occurs last;

(ii) In a foreign port, on the day (a) of completion of the discharge of cargo if the vessel loads cargo in such port of discharge, (b) prior to the day of commencement of loading cargo if the vessel departed its last port of cargo discharge in ballast;

(iii) In the case of special circumstances such as strike or lack of cargo activity, on the day approved by the Region Director upon request for a variance by the operator; or

(iv) On the final voyage, on the day provided in the ODSA for termination of the final voyage.

(4) *Periods of reduced crew, idleness, delay or lay-up*—(i) *Report by operator*.